



LIMITED ENGLISH PROFICIENCY

PURPOSE

The purpose of this policy is to transmit federal and state policy guidance regarding the prohibition against national origin discrimination as it affects persons with limited English proficiency (LEP).

SCOPE

Workforce Innovation and Opportunity Act Title I contracted Service Providers

RESPONSIBLE PARTY

Workforce Alliance of the North Bay
Regional Workforce Development Board

REFERENCES

- WIOA (Public Law 113-125) Section 188
- Title 29 CFR Part 38
- Department of Labor (DOL) Training and Employment Notice (TEN) 28-16, Subject: Best Practices, Partnership Models, and Resources Available for Serving English Language Learners, Immigrants, Refugees, and New Americans (January 9, 2017)

DEFINITIONS

Babel Notice – a short notice included in a document or electronic medium (e.g. web site, “app,” email) in multiple languages informing the reader that the communication contains vital information, and explaining how to access language services to have the contents of the communication provided in other languages (29 CFR Section 38.4[i]).

Employment-related training – training that allows or enables an individual to obtain skills, abilities and/or knowledge that are designed to lead to employment (29 CFR Section 38.4[t]).

LEP individual – an individual whose primary language for communication is not English and who has a limited ability to read, speak, write, and/or understand English. An LEP individual may be competent in English for certain types of communication (e.g., speaking or understanding), but still be LEP for other purposes (e.g., reading or writing) (29 CFR Section 38.4[hh]).

LEP Plan – a written language access plan which assists in ensuring that LEP individuals have meaningful access to WIOA Title I – financially assisted programs and activities (29 CFR Section 38.9 Appendix).

Meaningful Access – language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual. For LEP individuals, meaningful access denotes access that is not significantly restricted, delayed, or inferior as compared to programs or activities provided to English proficient individuals.

Primary language – an individual’s primary language is the language in which an individual most effectively communicates, as identified by the individual.

Workforce Alliance of the North Bay is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.

Vital Information – information, whether written, oral or electronic, that is necessary for an individual to understand how to obtain any aid, benefit, service, and/or training; necessary for an individual to obtain any aid, benefit, service, and/or training; or required by law.

POLICY

- I. Reasonable Steps to Ensure Meaningful Access for LEP individuals
 - A. The Workforce Alliance of the North Bay (The Alliance) and its service providers shall take reasonable steps to ensure that LEP individuals have meaningful access to their programs and activities. These reasonable steps shall include, but are not limited to, the following:
 1. Conducting an assessment of an LEP individual to determine their language assistance needs.
 2. Providing oral interpretation or written translation of both hard-copy and electronic materials, in the appropriate non-English languages, to LEP individuals.
 3. Conducting outreach to LEP communities to improve service delivery in needed languages.
 - B. Reasonable steps for providing meaningful access to training programs shall include, but are not limited to the following:
 1. Written training materials in appropriate non-English languages by written translation, or by oral interpretation, or summarization.
 2. Oral training content in appropriate non-English languages through in-person or telephone translation.
 - C. Furthermore, The Alliance and its service providers shall ensure that every program delivery method, whether it be in person, electronic, or by phone, conveys in the appropriate language how an LEP individual may effectively learn about, participate in, and/or access any aid, benefit, service, or training available to them.
- II. Language Assistance Services
 - A. Language assistance generally comes in two forms: oral interpretation or written translation. The Alliance and its service providers shall ensure that these services are free of charge and provided in a timely manner. An LEP individual must be given adequate notice about the existence of interpretation and translation services and that they are available free of charge. Language assistance will be considered timely when it is provided at a place and time that ensures equal access and avoids the delay or denial of any aid, benefit, service, or training.
- III. Interpreter Services
 - A. WIOA Service Providers for the Alliance shall not require an LEP individual to provide their own interpreter. Service Providers shall not rely on an LEP individual's minor child or adult family member or friend to interpret or facilitate communication, except for the following circumstances:
 1. In emergency situations while awaiting a qualified interpreter.
 2. When the information conveyed is of minimal importance to the services to be provided.



3. When an LEP individual specifically requests that an accompanying adult provide language assistance and they agree to provide assistance to the individual. If the service provider permits an accompanying adult to serve as an interpreter for an LEP individual, it must make and retain a record of the LEP individual's decision to use their own interpreter.

B. Finally, where precise, complete, and accurate interpretations or translation of information and/or testimony are critical for adjudicatory or legal reasons, Local Areas can still provide their own, independent interpreter, even if an LEP individual wants to use their own interpreter as well. This also applies in cases where the competency of the interpreter requested by the LEP individual is not established.

IV. LEPs and Vital Information

A. Federal Regulations require written materials to be translated for those languages that are spoken by a significant portion of the population eligible to be served, or likely to be served. The Alliance has determined that a five percent (5%) threshold shall apply when considering which languages are spoken by a significant portion of the populations. No languages currently or have historically met the 5% threshold, however, the WIOA service providers of the Alliance will be responsible for periodically reviewing the potential eligible population of their assigned service area to determine if the language threshold has been met in their area.

B. For all spoken languages and LEP individuals, the Alliance and its service provider shall take reasonable steps to meet the particularized language needs of LEP individuals who seek to learn about, participate in, and/or access the aid, benefit, service, or training that is available to them. Vital information may be conveyed orally if not translated.

C. Finally, to the extent otherwise required by 29 CFR Part 38, once a service provider becomes aware of the non-English preferred language of an LEP beneficiary, participant, or applicant for aid, benefit, service, or training, the service provider must convey vital information in that language.

V. Babel Notice

A. A babel notice is now required for all communications of vital information. "Babel Notice" means a notice which provides written translation in multiple languages of a phrase which informs LEP individuals of the availability of translation and interpretation services upon request. "Vital Information" shall include any notices, decisions, or letters sent to an individual, either electronically or in writing.

B. Based on policy direction and state guidance, the Alliance has determined that the top 6 non-English spoken languages in California, as determined by the United States Census Home Survey, will be the necessary languages to be displayed on the Babel Notice. Service providers shall begin sending the Alliance Babel Notice with all communications of vital information.

VI. Written LEP Plan

A. The Alliance and its service providers will develop, implement, and periodically revise an LEP plan that addresses the following elements in our local area to ensure meaningful access to LEP individuals:

1. The process to determine the language needs of individuals who may or may seek to participate in programs and activities (self-assessment or needs – assessment) that receive financial assistance under WIOA Title I.
2. The results of assessment.



3. Timelines for implementing the LEP plan.
 4. All language services to be provided to LEP individuals.
 5. The manner in which LEP individuals will be advised of available services.
 6. Steps LEP individuals should take to request language assistance.
 7. The manner in which service provider staff will provide language assistance services.
 8. Steps to be taken to implement the LEP plan.
 9. The manner in which service provider staff will be trained.
 10. Steps the service provider's will take to ensure quality control, including monitoring implementation, establishing a complaint process, timely addressing complaints, and obtaining feedback from stakeholders and employees.
 11. The manner in which the service providers will document the provisions of language services.
 12. The schedule for revising the LEP plan.
 13. The individual(s) assigned to oversee implementation of the LEP plan.
 14. Allocation of resources to implement the LEP plan.
- B. The elements of the LEP plan will be tailored to the Alliance service providers specific programs and activities. Revisions to the plan will reflect the following:
1. New recommendations and government guidance.
 2. Changes in the Local Area's operations as well as the experiences and lessons learned.
 3. Changing demographics.
 4. Stakeholder and beneficiary feedback.

POLICY UPDATE HISTORY

October 11, 2018 – New Policy

INQUIRIES

Questions regarding this policy can be sent to the Operations Analyst.

